

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

BRIAN AND'RE WARREN,)	
)	
Plaintiff,)	
v.)	Case No. 4:23-cv-00646-SEP
)	
ACCESS-SECUREPAK,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

Before the Court is Plaintiff Brian And're Warren's Complaint, Doc. [1], and Motion to Waive Filing Fees and Order U.S. Marshal Services, Doc. [2]. In the latter filing, Plaintiff asks this Court to "waive the filing fees" and serve the complaint upon the defendant, pursuant to "28 USC 1915." Doc. [2]. The Court therefore construes it as a motion for leave to proceed *in forma pauperis*.

Plaintiff is a prisoner who, while incarcerated, has filed at least three civil actions that were dismissed on grounds that they were frivolous or malicious, or that they failed to state a claim upon which relief may be granted.¹ The Prison Litigation Reform Act of 1996 provides:

In no event shall a prisoner bring a civil action ... under this section if the prisoner has, on three or more prior occasions, while incarcerated or detained in any facility, brought an action . . . in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). Therefore, Plaintiff may proceed *in forma pauperis* in this civil action only if he "is under imminent danger of serious physical injury." *Id.*

Plaintiff's allegations concern the defendant's allegedly wrongful refusal to let him receive a Securepak package and participate in the Securepak program. The allegations do not establish that Plaintiff is under imminent danger of serious physical injury. He therefore may not proceed *in forma pauperis* in this action. As a result, the Court denies Plaintiff's motion, Doc. [2], and dismisses this case without prejudice to the filing of a fully-paid complaint.

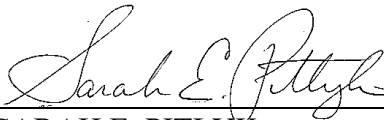
¹ See *Warren v. Miller*, No. 1:96-cv-119 (W.D. Mich. Aug. 13, 1996); *Warren v. Overton*, No. 1:02-cv-917 (W.D. Mich. Jan. 7, 2003); and *Warren v. Walters*, No. 2:04-cv-74876 (E.D. Mich. Feb. 10, 2005).

Accordingly,

IT IS HEREBY ORDERED that Plaintiff Brian And're Warren's Motion for Leave to Proceed *in forma pauperis*, Doc. [2], is **DENIED**.

IT IS FURTHER ORDERED that this case is **DISMISSED** without prejudice to the filing of a fully-paid complaint. A separate order of dismissal will be entered herewith.

Dated this 26th day of May, 2023.

A handwritten signature in cursive script, reading "Sarah E. Pitlyk", written in black ink.

SARAH E. PITLYK
UNITED STATES DISTRICT JUDGE